

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GLOBECON GROUP, LLC,

Plaintiff,

– against –

INTUITION PUBLISHING, INC. and
PATRICK PANCOAST,

Defendants,
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Case No. 07 Civ. 2817 (Marrero)
ECF Case

**DECLARATION OF PATRICK
PANCOAST IN SUPPORT OF
MOTION TO DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION**

Patrick Pancoast declares under the penalty of perjury as follows:

1. I am a citizen of the United States, reside in the United Kingdom, and make this declaration on the basis of personal knowledge in support of the motion of Intuition Publishing, Inc. (“Intuition”) to dismiss for lack of subject matter jurisdiction.
2. Although I have been named as one of the defendants in this action, plaintiff has not served me with process. By submitting this declaration as a witness in support of Intuition’s motion I do not mean to appear or waive service of process.
3. I have examined the Complaint in this action, including paragraphs 80-83, which identify certain allegedly infringed documents that are the subject of plaintiff’s copyright infringement claim. These documents are annexed to the Complaint as Exhibits C, E, G and I.
4. I have also reviewed Exhibit M to the Complaint, which purports to be a list of registration certificates for works owned by the plaintiff Globecon Group, LLC. Notably, paragraph 78 of the Complaint does *not* appear to allege that the registration certificates identified in Exhibit M are for, or include, the allegedly infringed works.

5. I have also been provided with and have reviewed the documents annexed hereto as Exhibit A to this Declaration, which are photocopies of the registration certificates identified in Complaint Exhibit M (hereafter, “the Registration Certificates”), which counsel for Intuition has collected from the Register of Copyright. Those certificates are all in the name of Globecon Group, Ltd., which is not the plaintiff here.

6. I am personally familiar with the business of the Globecon Group, Ltd., the copyright claimant in each of the Registration Certificates identified in complaint Exhibit M and fully reproduced in Exhibit 1 hereto. During the period in which those certificates were applied for and issued (1990 – 1999), I was associated with the Globecon Group, Ltd. as an employee and an independent contractor.

7. The Registration Certificates do not appear to be registrations of the allegedly infringed works identified in paragraphs 80-83 (Exhibits C, E, G and I) (“the Allegedly Infringed Works”). The Registration Certificates identify titles for works other than and different from the Allegedly Infringed Works; and conversely, the titles of the Allegedly Infringed Works annexed to the Complaint have titles that are different from, and do not pertain to, the titles identified in the Registration Certificates.

8. Each of the works registered by the Registration Certificates has one of three titles: either “Skills and Applications,” “Techniques and Products,” or “Techniques and Solutions.” Those three titles are the names of newsletters published by the Globecon Group, Ltd. while I was there. The newsletters in those series are not the four works identified as the Allegedly Infringed Works which are the subject of plaintiff’s claims.

9. In sum, the Complaint does not expressly allege registration of the Allegedly Infringed Works, and the registrations it does allege are for different works from the Allegedly

Infringed Works. Based on my review, it appears that there is no registration for any of the Allegedly Infringed Works.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on May 11, 2007.

A handwritten signature in black ink, appearing to read "Patrick Pancoast", written over a horizontal line.

Patrick Pancoast